



to United States Magistrate Judge Hawthorn on that same day. Plaintiff filed a consent to proceed before the U.S. Magistrate Judge on April 14, 2016 (docket entry no. 3) and a motion for leave to file an amended complaint (docket entry no. 4). In the motion for leave to file an amended complaint, it was noted that plaintiff had been transferred to the Stiles Unit. *Id.*, pg. 2. Plaintiff's motion for leave to file amended complaint was granted on August 17, 2016 (docket entry no. 6) and the Amended Complaint was filed on the same day (docket entry no. 7). In the amended complaint, plaintiff added claims against defendants Thorp, Holderrieth and Livingston surrounding the same events involving Lieutenant Torres at the Eastham Unit, in addition to adding a request for damages.

A Report and Recommendation was entered on March 16, 2017, recommending plaintiff's claims against defendants Thorp, Holderreith and Livingston be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g) as plaintiff was no longer in imminent danger of serious physical injury with respect to these defendants *at the time he filed his amended complaint* (docket entry no. 11). On that same day, an order for defendant Torres to answer was entered (docket entry no. 12). In response to the order to answer, the Office of the Attorney General, as Amicus Curiae, filed a Motion to Revoke Plaintiff's *In Forma Pauperis* status as it relates to his claims against defendant Torres (docket entry no. 15).

This Court never received objections to the Report and Recommendation entered March 16, 2016. A Memorandum Opinion and Order Adopting the Report and Recommendation and Partial Judgment were entered on May 11, 2017 (docket entry nos. 17 & 18).

Plaintiff then filed a Motion for Default Judgment on June 22, 2017 (docket entry no. 20), a Motion for Relief from Judgment on June 27, 2017 (docket entry no. 21), and then the current Motion to Intervene on October 27, 2017 (docket entry no. 23). Magistrate Judge Zack Hawthorn

entered a Report and Recommendation on November 6, 2017, recommending plaintiff's Motion for Default Judgment be denied (docket entry no. 24).

Discussion

Plaintiff complains Judge Hawthorn erred in recommending plaintiff's claims against defendants Thorp, Holderreith and Livingston be dismissed as plaintiff did not meet the imminent danger exception at the time he filed his amended complaint. In addition, plaintiff complains Judge Hawthorn has erred in "delaying" a ruling on the Motion to Revoke Plaintiff's *In Forma Pauperis* Status filed by the Office of the Attorney General as Amicus Curiae. A review of the docket in this matter, however, reveals no delay and the orders entered by the Magistrate Judge are neither clearly erroneous nor contrary to law.

ORDER

**ORDERED** that plaintiff's Motion to Dismiss the Magistrate Judge (docket entry no. 23) is **DENIED**.

**So Ordered and Signed**

Dec 1, 2017



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Ron Clark, United States District Judge